

Hon. Philip Gutierrez (Ret.)
JAMS
555 West 5th Street, 32nd Floor
Los Angeles, CA 90013
213-253-9780
Special Master

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EPIC GAMES, INC,

Plaintiff,

vs.

APPLE, INC.,

Defendants.

Case No. 4:20-CV-05640-YGR-TSH

JAMS Reference No. 7220000268

**CONSENT OF COURT-APPOINTED
SPECIAL MASTER AND AFFIDAVIT OF
PHILIP GUTIERREZ**

Judge: Hon. Yvonne Gonzalez Rogers

1. I, PHILIP GUTIERREZ, hereby affirm under penalty of perjury, that I am retired from the United States District Court, Central District of California, and am currently serving as a neutral at JAMS, in the office 555 West 5th Street, 32nd Floor, Los Angeles, CA 90013.

2. I have received the JOINT STIPULATION AND ORDER APPOINTING SPECIAL MASTERS [Dkt. No. 1074], signed by Hon. Yvonne Gonzalez Rogers and I hereby consent to appointment as Special Master in the above-entitled case. The normal rate of compensation as a Special Master is \$1,800 per hour plus administrative fees as outlined in the attached Fee Schedule.

3. I have read and reviewed the grounds for disqualification under 28 U.S.C. § 455 and declare as follows:

a. I have no personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding.

b. I have not served in private practice since 1997 and have not served as a lawyer in the matter in controversy, nor has any lawyer with whom I previously practiced law served during such association as a lawyer concerning the matter, nor as a judge or lawyer have I been a material witness concerning it.

c. I have not served in government employment wherein I would have participated as counsel, adviser or material witness concerning the proceeding, nor have I expressed an opinion concerning the merits of the case herein.

d. I know that neither I, individually or as a fiduciary, has a financial interest in the subject matter in controversy, nor in a party to the proceeding, nor any other interest that could be substantially affected by the outcome of the proceeding.

e. I state that neither I nor any person within the third degree of relationship to nor the spouse of such person:

(i) is a party to the proceeding, nor an officer, director, nor trustee of a party

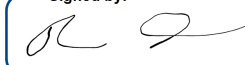
(ii) is acting as a lawyer in the proceeding;

(iii) is known by this Court-Appointed Neutral (Referee/Special Master) to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) is to the Court-Appointed Special Master's knowledge, likely to be a material witness in the proceeding.

I declare under penalty of perjury that the preceding facts are true as known to me or those matters not directly known to me are true on information and belief.

Dated: 12/17/2024 | 4:33 PM PST

Signed by:

85938F9BA315450...
 Hon. Philip Gutierrez (Ret.)
 Special Master

California General Disclosures & Mediation Disclosures ☐ Report A (MKT016A)

Epic Games, Inc. vs. Apple, Inc.

This report includes General Disclosure of Client Activity. Case counts are provided for Arbitrations, Court Reference Matters, Mediations and other ADR. As required by the California Ethics Standards, Arbitration, Med-Arb, and Court Reference numbers are provided for the last 5 years; Mediation numbers are provided for the past 2 years. This Report also includes the detail required for Mediations per Standard 7. (Required additional case detail for Arbitrations, Med-Arbs and Court Reference cases are included in a separate report, JAMS Case Disclosure Report B (MKT016C).)

Panelist: Philip Gutierrez

Reference #: 7220000268

12/17/2024

Defendant(s)

Apple Inc.

No Address Listed

Relevant Cases heard with Apple Inc.

No Cases to Report

Counsel for Defendant

Cynthia Richman

Gibson Dunn & Crutcher

1050 Connecticut Ave. NW
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Relevant Cases heard with Cynthia Richman

No Cases to Report

Daniel G. Swanson

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Relevant Cases heard with Daniel G. Swanson

No Cases to Report

Jason C. Lo

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Relevant Cases heard with Jason C. Lo

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Relevant Cases heard with Julian W Kleinbrodt

No Cases to Report

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No Cases to Report

Relevant Cases heard with Weil Gotshal & Manges LLP

No Cases to Report

Nicole J. Comparato
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Suite 1200
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Relevant Cases heard with Nicole J. Comparato

No Cases to Report

Plaintiff(s)

Epic Games, Inc.
No Address Listed

Relevant Cases heard with Epic Games, Inc.

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Counsel for Plaintiff

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Relevant Cases heard with Gary A. Bornstein

No Cases to Report

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Relevant Cases heard with Michael J. Zaken

No Cases to Report

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No Cases to Report

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Relevant Cases heard with Paul J. Riehle

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Other Disclosures

N/A

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Defendant(s)

Apple Inc.
No Address Listed

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Counsel for Defendant

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General Fee Schedule

Hon. Philip Gutierrez (Ret.)

PROFESSIONAL FEES

Daily Rate\$18,000

Includes up to 8 hours of session time on the scheduled day

- Other professional time (including additional hearing time, pre- and post-hearing reading and research, conference calls, and drafting orders and awards) will be billed at \$1,800 per hour. This may include travel time.

ARBITRATION FEES

Filing Fee

\$2,000 – Two Party Matter

\$3,500 – Matters involving three or more parties

\$2,000 – Counterclaims

- Entire Filing Fee must be paid in full to commence the proceedings.
- A refund of \$1,000 will be issued if the matter is withdrawn within five days of filing. After five days, the Filing Fee is non-refundable.

Case Management Fee

- 13% of Professional Fees
- The Case Management Fee includes access to an exclusive nationwide panel of judges, attorneys, and other ADR experts, dedicated services including all administration through the duration of the case, document handling, and use of JAMS conference facilities including after hours and on-site business support. Weekends and holidays are subject to additional charges.

CASE MANAGEMENT FEES FOR OTHER MATTERS

(Discovery, Special Master, Reference, and Appraisal)

Initial Non-Refundable Case Management Fee of \$1000 per party

Plus 13% of Professional Fees

Neutral Analysis Matters

Contact JAMS for administrative and pricing details.

CANCELLATION/CONTINUANCE POLICY

Number of Days	Cancellation/Continuance Period	Fee
1 day or less	14 days or more prior to session	100% REFUNDABLE, except for time incurred
2-3 days	30 days or more prior to session	100% REFUNDABLE, except for time incurred
4-5 days	45 days or more prior to session	100% REFUNDABLE, except for time incurred
6 days or more	60 days or more prior to session	100% REFUNDABLE, except for time incurred
Sessions of any length	Inside the cancellation/continuance period	NON-REFUNDABLE

- Unused hearing time is non-refundable.
- Hearing fees, including all applicable Case Management Fees, are non-refundable if time scheduled (or a portion thereof) is cancelled or continued after the cancellation date unless the Arbitrator's time can be rescheduled with a hearing in another matter. The cancellation policy exists because time reserved and later cancelled generally cannot be replaced. In all cases involving non-refundable time, the cancelling or continuing party is responsible for the fees of all parties.
- A retainer for anticipated preparation and follow-up time will be billed to the parties. Any unused portion will be refunded.
- Refund Policy: Overpayments are issued to the billing contact on the matter regardless of the paying party.
- All fees are due and payable in advance of services rendered and by any applicable due date as stated in a hearing confirmation letter. JAMS reserves the right to cancel your hearing if fees are not paid by all parties by the applicable cancellation date and JAMS confirms the cancellation in writing.
- Receipt of payment for all fees is required prior to service of an arbitration order or award.
- For arbitrations arising out of employer-promulgated plans, the only fee that an employee may be required to pay is \$400. The employer must bear the remainder of the employee's share of the Filing Fee and all Case Management Fees. Any questions or disagreements about whether a matter arises out of an employer-promulgated plan or an individually negotiated agreement or contract will be determined by JAMS, whose determination shall be final.
- For arbitrations arising out of pre-dispute arbitration clauses between companies and individual consumers, JAMS Policy on Consumer Arbitrations Pursuant to Pre-Dispute Clauses, Minimum Standards of Procedural Fairness applies. In those cases, when a consumer (as defined by those Minimum Standards) initiates arbitration against the company, the only fee required to be paid by the consumer is \$250. The company must bear the remainder of the consumer's share of the Filing Fee and all Case Management Fees.
- Parties that, through mutual agreement, have held their case in abeyance for one year will be assessed an initial abeyance fee of \$500, and \$500 every six months thereafter. If a party refuses to pay the assessed fee, the other party or parties may opt to pay the entire fee on behalf of all parties, otherwise the matter will be closed.
- JAMS panelists may use a law clerk depending on the complexity of the case. The parties will be informed of the engagement if the neutral plans to employ a clerk. The clerk's hourly rate will be billed to the parties subject to the agreed fee split and in accordance with JAMS' policies.

JAMS agreement to render services is with the attorney, the party, and/or other representatives of the party.